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भाग 4 (ग)

उप-खण्ड(II)

राज्य सरकार तथा अन्य राज्य प्राधिकारियों द्वारा जारी किये गये कानूनी आदेश तथा अधिसूचनाएं

DEPARTMENT OF MEDICAL, HEALTH & FAMILY WELFARE

NOTIFICATION

Jaipur, July 12, 2021

S.O.575 .-In exercise of the powers conferred by section 49 of the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017 (Central Act No. 16 of 2017), the State Government hereby makes the following rules, namely:-

1. Short title and commencement.- (1) These rules may be called the Rajasthan Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Rules, 2021.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.- (1) In these rules, unless the context otherwise requires,-

(a) "Act" means the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017;

(b) "Form" means the forms appended to these rules;

(c) "Ombudsman" means any officer designated as Ombudsman, from time to time, by the State Government under section 23 of the Act; and

(d) "State Government" means the Government of Rajasthan.

(2) Words and expressions used but not defined in these rules but defined in the Act, shall have the same meaning as assigned to them in the Act.

3. Measures for diagnostic facilities of HIV/AIDS, Anti-retroviral Therapy and Opportunistic Infection Management.-The State Government and Rajasthan State AIDS Control Society shall provide free diagnostic services related to HIV/AIDS, Anti-retroviral Treatment and management of Opportunistic Infections to all people living with HIV/AIDS (PLHIVs) in all Government Health facilities across the State notified by the State Government. Anti-retroviral (ARV) drugs shall be provided free of cost in all Government Health facilities in accordance with the guidelines issued by the Central Government, from time to time, under the Act.

4. Designation of Ombudsman.- (1) The State Government shall designate one or more Ombudsman to exercise such powers and discharge such function, as may be conferred on Ombudsman under the Act.

(2) The State Government shall designate a senior officer of Medical, Health & Family Welfare Department not below the rank of Director as an Ombudsman. The Ombudsman shall have its jurisdiction over whole of the Rajasthan:

(3) The State Government shall provide capacity building to the officer designated as the Ombudsman within thirty days from date of his designation.

5. Manner of enquiring into complaints by Ombudsman.- (1) The Ombudsman shall act in an objective and independent manner when inquiring into complaints made under the Act.
(2) On receipt of a complaint or while taking sou motu cognizance, the Ombudsman shall hold an inquiry in such manner as he deems fit.
(3) The inquiry shall satisfy the basic principles of natural justice and the complainant shall be given an opportunity of being heard and his/her opinion shall be taken into consideration.
(4) The Ombudsman shall conduct an inquiry in a friendly manner and will not use adversarial or accusatory word or words that adversely impact the dignity or self-esteem of the complainant.
(5) While inquiring into complaints under the Act, the Ombudsman shall give a reasonable opportunity to concerned parties to be heard and in appropriate cases evidence on affidavits may be taken:

Provided that no cross-examination shall be permitted in inquiries before the Ombudsman.

(6) The Ombudsman may, in the interests of justice, take the assistance of experts, including protected persons and persons vulnerable to HIV, and persons working in the fields of HIV and AIDS, public health or health delivery systems.
(7) The Ombudsman shall have the power to pass interim orders in cases of medical emergency including directing admissions, operations or treatment.
(8) The Ombudsman shall inform the complainant of the action taken in relation to his complaint.
(9) The Ombudsman shall inform the parties to the complaint of their right to seek judicial review from the Ombudsman's order.

6. Manner of maintaining records by Ombudsman.- (1) The Ombudsman shall,-

(a) immediately on receipt of a complaint, record it by assigning a sequential unique complaint number in a register maintained solely for that purpose in physical or computerized form;
(b) on receipt of the complaint, acknowledge it including by sending the unique complaint number by SMS or e-mail to the complainant where available;
(c) record the time of the complaint and the action taken on the complaint in the register, and
(d) maintain the register of complaints in a manner that ensures confidentiality of data and also shall comply with data protection measures in accordance with section 11 of the Act.

(2) The Ombudsman shall submit a quarterly report of disposal of cases and pendency of cases to the State Government in the manner as may be specified by the State Government, for review of pendency of cases.

7. Manner of making complaints to Ombudsman.- (1) Any person may make a complaint to the Ombudsman within whose jurisdiction the alleged violation took place, within three months from the date on which the person making the complaint became aware of the alleged violation of the Act:

Provided that the Ombudsman may, for reasons to be recorded in writing, extend the time limit to make the complaint by a further period of three months, if he is satisfied that circumstances prevented the complainant from making the complaint within the stipulated period.

(2) All complaints shall be made to the Ombudsman in writing in Form:

Provided that where a complainant cannot make a complaint in writing, the Ombudsman shall render all reasonable assistance to the complainant to reduce the complaint in writing.

(3) In cases of medical emergency, the Ombudsman or any officer authorized by him may visit the complainant at the location of the alleged violation or any other convenient place to enable written documentation of the complaint.

(4) The Ombudsman may receive complaints made in person, via post, telephonically, or through electronic form through the Ombudsman's website:

(5) The Ombudsman shall record the time of the complaint and the action taken on the complaint in the register.

(6) The State Government shall create a website of the Ombudsman within seven days of designation of the Ombudsman.

8. State Government to disseminate information about the Ombudsman.-(1) Within thirty days from the date on which the Ombudsman is designated, the appropriate authority under the State Government shall disseminate information about the office of the Ombudsman, including the Ombudsman's jurisdiction, role, functioning and procedures, and the manner in which complaints can be made to the Ombudsman.

(2) Such dissemination shall be undertaken to advance the understanding, in particular, of protected persons, healthcare workers, legal aid service authorities and civil authorities.

9. Manner of recording pseudonym and providing suppression of identity in legal proceedings.- (1) In any legal proceeding where a court, pursuant to clause (a) of sub-section (1) of section 34 of the Act directs, on an application made by a protected person or any other person on his behalf, that in the interests of justice the proceeding or any part thereof be conducted by suppressing the identity of such protected person, the court shall direct all parties involved in the proceedings to;-

(i) file one copy of the documents bearing the full name, identity and identifying details of the parties concerned before the court, which shall be kept in a sealed cover and in safe custody with the court; and

(ii) serve one copy of documents bearing the full name, identity and identifying details of the parties concerned upon other parties in the proceeding with a requirement to ensure that the full name and identity of the parties concerned are kept confidential.

(2) The court shall provide pseudonyms to protected persons involved in the legal proceedings in the documents filed before the court in such manner that the identity and identifying details of the protected person involved in the legal proceeding are kept confidential.

(3) The officer authorised by the court Registrar shall place the sealed covered documents before the court on the first date the legal proceeding is listed for hearing before the court, if so required by the court.

(4) The identities of the protected person involved in the legal proceeding and their identifying details shall be displayed in pseudonym in all documentation generated by the court in relation to the legal proceeding, including listing of the case on the Court Board, interim orders and final judgments.

(5) The identity and identifying details of the protected person involved in the legal proceeding shall not be revealed by any person or their representatives including assistants and staff.

Exception: Where in the interest of justice the name and identity of the protected person needs to be revealed to a third party, it shall only be allowed by an order of the court.

(6) Printing or publishing any matter in relation to the aforementioned legal proceedings in electronic or any other form, shall be lawful only if the same is done by ensuring the suppression of identities of the parties in the legal proceeding.
(7) In any legal proceeding before it under the Act, the court shall comply with data protection measures in accordance with section 11 of the Act.

[No. F.17(1)M&H/2/2021]
By Order of the Governor,
Sanjay Kumar,
Deputy Secretary to the Government.

Form

(See rule 7(2))

Form for making Complaint to Ombudsman

For Official Use only:

Unique Complaint Number: _____

Name of the complainant: _____ Date: _____

Phone/Mobile No:_____

Email: _____

Fax: _____

Address for communication: _____

_____

_____

Date of Incident _____

Place of Incident _____

Description of incident _____

Person/ Institution responsible for the incident:

_____

_____

_____

Signature/ Thumb Impression of Complainant*

Government Central Press, Jaipur.